

## ISRB Hearing History and Status of CCB Offenders in Prison Through June 30, 2011

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The Washington Indeterminate Sentence Review Board (ISRB or Board) has jurisdiction over certain serious sex offenders with offense dates after August 31, 2001. These offenders have what is known as Determinate-Plus sentences. They are referred to as community custody – Board (CCB) offenders. The Board holds hearing to make decisions about releasing such offenders from prison.

Through June 30, 2011, the Board has held 1161 hearings for 642 individual CCB offenders. Of those 642 individuals, 397 have released from prison. At the current time, 273 (15.7 percent) of the 1740 CCB offenders in prison have had at least one CCB release hearing.

What follows is a brief look at ISRB hearing numbers, release decisions, and addition of time associated with “not-releasable” decision. The information is presented for the Fiscal Years 2002-2006 combined and individual Fiscal Years 2007 – 2011. It is important to point out that the dynamic nature of both the hearing process and offender status take away from the precision of the data presented here. For example, the Board may find an offender releasable, but after being informed of new information decide to hold another hearing. In such a case, the offender would have two “releasable” decisions recorded before actually being released. In addition, if a CCB community custody sentence is revoked, the offender hearing process starts over. In such a case, the offender would have more than one “1<sup>st</sup> CCB Release Hearing” recorded. Finally, there have been offenders who have had 4, 5, or even 6 hearings, but data will only be shown for the first 3 hearings.

There were relatively few release hearings during the first years after implementation of the Determinate-Plus Sentencing legislation. The Board, relying on the long history of holding hearings for Indeterminate Sentence offenders, and following legislative direction, established policies and procedures for CCB release hearings. This also gave Board members time to gain knowledge and experience with this sex-offending population.

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As shown in Table 1, by Fiscal Year 2007, the Board was increasingly using added expertise in their decision making. The risk mitigation of sex offender treatment played a large role. In order to let CCB offenders take part in the Sex Offender Treatment Program (SOTP), it was often necessary to extend the sentence term. The increase in percentage of offenders found “not releasable” at the 1<sup>st</sup> hearing is evidence of this practice. The same can be said for the decreased percentages found “not releasable” at subsequent hearing in more recent Fiscal Years.

| TABLE 1                              |                                     |      |       |      |       |      |       |      |       |      |       |      |
|--------------------------------------|-------------------------------------|------|-------|------|-------|------|-------|------|-------|------|-------|------|
| PERCENT OF "NOT RELEASABLE" FINDINGS |                                     |      |       |      |       |      |       |      |       |      |       |      |
| HEARING TYPE BY FISCAL YEAR          |                                     |      |       |      |       |      |       |      |       |      |       |      |
| HEARING TYPE                         | HEARING NUMBER AND % BY FISCAL YEAR |      |       |      |       |      |       |      |       |      |       |      |
|                                      | FY 02/06                            |      | FY 07 |      | FY 08 |      | FY 09 |      | FY 10 |      | FY 11 |      |
|                                      | N                                   | %    | N     | %    | N     | %    | N     | %    | N     | %    | N     | %    |
|                                      | 148                                 |      | 110   |      | 140   |      | 195   |      | 223   |      | 269   |      |
| 1ST 420/CCB<br>REL HRG               |                                     | 50.0 |       | 53.9 |       | 71.8 |       | 65.9 |       | 71.9 |       | 70.3 |
| 2ND 420/CCB<br>REL HRG               | .                                   | 74.2 |       | 60.9 |       | 45.8 |       | 42.9 |       | 45.3 |       | 36.9 |
| 3RD 420/CCB<br>REL HRG               | .                                   | .    |       | 88.3 |       | 77.8 |       | 33.3 |       | 68.6 |       | 33.3 |

When an offender is found “not releasable” and the Board recommends SOTP, a computer code is entered to that effect. Because Table 2 presents data based solely on that code, it is somewhat of an under-representation of the times the Board makes such a recommendation. None-the-less, it clearly shows the impact this factor has on hearing decisions. The Board is not only recommending SOTP at the 1<sup>st</sup> hearing, but at subsequent hearings as well.

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| TABLE 2   |   |    |       |    |       |    |       |    |       |    |       |    |
|---|---|----|-------|----|-------|----|-------|----|-------|----|-------|----|
| PERCENT WITH SOTP FOR "NOT RELEASABLE" FINDINGS |   |    |       |    |       |    |       |    |       |    |       |    |
| HEARING TYPE BY FISCAL YEAR                     |   |    |       |    |       |    |       |    |       |    |       |    |
| HEARING TYPE                                    | NOT RELEASABLE NUMBER AND % WITH SOTP RECOMMENDED |    |       |    |       |    |       |    |       |    |       |    |
|   | FY 02/06  |    | FY 07 |    | FY 08 |    | FY 09 |    | FY 10 |    | FY 11 |    |
|   | N   | %  | N     | %  | N     | %  | N     | %  | N     | %  | N     | %  |
|   | 87  |    | 63    |    | 90    |    | 100   |    | 142   |    | 148   |    |
| 1ST 420/CCB<br>REL HRG                          |   | NA |       | 51 |       | 66 |       | 72 |       | 62 |       | 73 |
| 2ND 420/CCB<br>REL HRG                          | .   | NA |       | 28 |       | 46 |       | 39 |       | 41 |       | 58 |
| 3RD 420/CCB<br>REL HRG                          | .   | .  |       | 20 |       | 0  |       | 17 |       | 18 |       | 25 |

As mentioned earlier, added time normally is associated with “not releasable” findings. Initially, the Board could add no more than 24 months to the minimum term of an offender who was found “not releasable.” That was later increased to 60 months. In practice, the Board adds a wide range of times. This can be seen in Table 3. For ease of presentation, months are “grouped” around the most common number. For example, a time of 5 months will be presented as 6-9 “months”, 31 months will be presented as 30 “months”, and so forth.

The cases with SOTP recommendations tend to be in the lower range of the times added. This is reflected in the average added time associated with “not releasable” findings. Looking only at the 1<sup>st</sup> hearing of offenders now in prison who have been found “not releasable”, the overall average time added has been 27.8 months. For those who have had a SOTP recommendation as part of that decision, the average time is only 17.6 months.

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| TABLE 3                       |           |      |           |      |           |      |           |      |           |      |           |      |
|-------------------------------|-----------|------|-----------|------|-----------|------|-----------|------|-----------|------|-----------|------|
| TIME ADDED, ALL AND WITH SOTP |           |      |           |      |           |      |           |      |           |      |           |      |
| BY FISCAL YEAR                |           |      |           |      |           |      |           |      |           |      |           |      |
| "MONTHS"                      | FY 02/06  |      | FY 07     |      | FY 08     |      | FY 09     |      | FY 10     |      | FY 11     |      |
| ADDED                         | TOTAL 'N' | SOTP | TOTAL 'N' | SOTP | TOTAL 'N' | SOTP | TOTAL 'N' | SOTP | TOTAL 'N' | SOTP | TOTAL 'N' | SOTP |
| 6-9                           | 0         | 0    | 10        | 9    | 26        | 21   | 39        | 36   | 47        | 36   | 7         | 7    |
| 12                            | 3         | 0    | 10        | 8    | 6         | 6    | 5         | 5    | 16        | 10   | 54        | 49   |
| 18                            | 0         | 0    | 2         |      | 3         | 0    | 9         | 5    | 9         | 5    | 19        | 13   |
| 24                            | 75        | 0    | 35        | 9    | 18        | 6    | 24        | 15   | 25        | 8    | 18        | 13   |
| 30                            | 0         |      | 0         |      | 4         | 1    | 7         | 4    | 4         | 3    | 11        | 5    |
| 36                            | 0         |      | 0         |      | 13        | 9    | 7         | 33   | 14        | 6    | 18        | 11   |
| 48                            | 0         |      | 0         |      | 2         | 0    | 3         | 0    | 5         | 2    | 3         | 0    |
| 60                            | 0         |      | 0         |      | 14        | 4    | 6         | 2    | 10        | 1    | 6         | 0    |

There are three things to be noted in Table 3.

- The number of cases with additions of less than 24 months keeps increasing.
- There continue to be very few cases with 60 months added.
- There is no clear pattern in the amounts of time added from year to year.

The history of CCB release hearings is not long. As noted earlier, less than 16 percent of the current CCB prison population has yet to have a hearing. The resource and public safety implications of Board hearing decisions are both high. Board policy and practice will undoubtedly continue to evolve as they seek to fulfill the mission *to make informed decision-making relating to an offender's release or further incarceration by a thorough analysis of the offender's past and present behavior and risk to public safety.*

Further information about CCB hearings may be found at the Indeterminate Sentence Review Board website: [www.srb.wa.gov](http://www.srb.wa.gov)